

ORIGINAL

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8 SHELTER ISLAND YACHTWAYS, LTD.
9 a California Limited Partnership,
10 dba SHELTER ISLAND BOATYARD

11 **UNITED STATES DISTRICT COURT**
12 **SOUTHERN DISTRICT OF CALIFORNIA**

13 SHELTER ISLAND YACHTWAYS, LTD., a
14 California Limited Partnership dba SHELTER
15 ISLAND BOATYARD,

16 Plaintiff,

17 v.

18 M/Y SUNDANCE, Official No. 521498, A
19 HATTARAS MOTORYACHT OF
20 APPROXIMATELY 33 FEET IN LENGTH
21 AND 12 FEET IN BEAM, AND ALL OF HER
22 ENGINES, TACKLE, ACCESSORIES,
23 EQUIPMENT, FURNISHINGS AND
24 APPURTENANCES, *in rem*,

25 Defendant.

26 **'07 CV 2015 DMS WMC**

27 Case No.

28 IN ADMIRALTY

29 DECLARATION OF ROY HOBBS
30 IN SUPPORT OF EX PARTE
31 APPLICATION FOR ORDER
32 APPOINTING SUBSTITUTE
33 CUSTODIAN

34 F.R.C.P. Supplemental Admiralty
35 Rules C and E.

36 46 U.S.C. Sections 30101-31343

37 I, ROY HOBBS, hereby declare:

38 1. I am the Controller of PLAINTIFF SHELTER ISLAND YACHTWAYS, LTD.,
39 dba SHELTER ISLAND BOATYARD ("Shelter Island Boatyard"), located at 2330 Shelter
40 Island Drive, San Diego, California. I make this Declaration on its behalf. The matters set
41 forth herein are of my own personal knowledge, and, if called to do so, I could and would
42 competently testify thereto.

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1 2. Shelter Island Boatyard is one of the best known and established boatyards in the
2 San Diego area. The DEFENDANT VESSEL is tied to a wharf at PLAINTIFF's boatyard,
3 which is fenced and maintains closed and locked gates after working hours.

4 3. In connection with operation of its boatyard, PLAINTIFF employs individuals
5 who collectively have several decades of experience in the maintenance, repair,
6 refurbishment, damage control, de-watering, building and management of vessels ranging
7 from small "day sailors" to multi-million dollar "mega yachts." SHELTER ISLAND
8 BOATYARD is familiar with the DEFENDANT VESSEL, and is fully qualified to preserve
9 and protect her and safely keep her in the place and stead of the United States Marshal, until
10 further order of the Court.

11 4. As substitute custodian, SHELTER ISLAND BOATYARD will perform the
12 following services for the DEFENDANT VESSEL during her custodianship:

13 a. Assume custody of the DEFENDANT VESSEL from the United States
14 Marshal at the place of her arrest, and keep her at its boatyard facility until further Order of
15 the Court;

16 b. As soon as possible after assuming custody of the DEFENDANT VESSEL,
17 photograph and/or video tape the interior and exterior, and prepare a written inventory of
18 major equipment and property aboard which is not installed as part of the DEFENDANT
19 VESSEL.

20 c. Periodically inspect mooring lines/fenders to assure safe and secure mooring;

21 d. Periodically as deemed prudent under the existing circumstances, but no less
22 than weekly, at the prevailing hourly boatyard labor rate, inspect the vessel for watertight
23 integrity, excessive bilge water and fuel or lubricant leaks. Where further action beyond those
24 detailed herein is deemed necessary to preserve the vessel, SHELTER ISLAND
25 BOATYARD shall advise counsel, so counsel can seek an appropriate order from the Court.

26 e. Provide, at the usual and customary rates prevailing in the port, additional
27 services such as cleaning, minor maintenance, inspection of bottom by a diver for the purpose
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1 of cleaning and reporting findings regarding underwater hull, metal and zinc conditions, as
 2 such services are deemed prudent.

3 f. SHELTER ISLAND BOATYARD will operate only machinery described in a
 4 proper Court Order.

5 g. Provide other such services as may be required from time-to-time, by further
 6 Order of the Court.

7 5. SHELTER ISLAND BOATYARD's responsibility shall not extend to inherent
 8 or latent defects or deficiencies in the hull, machinery or equipment, nor to any fines,
 9 penalties or costs related to the above.

10 6. SHELTER ISLAND BOATYARD maintains several insurance policies which
 11 protect it against negligence during its custodianship. Those policies include, among others:
 12 (a) commercial liability with Clarendon America Ins., with a per occurrence limit of
 13 \$1,000,000 and an aggregate limit of \$2,000,000; and (b) marine liability with Clarendon
 14 America Insurance, with a per occurrence limit of \$1,000,000.

15 7. I understand the United States Marshal is unable to perform the above-
 16 described services at a comparable price.

17 8. SHELTER ISLAND BOATYARD agrees to accept substitute custodianship of
 18 the DEFENDANT VESSEL, her engines, tackle, apparel and furniture, in accordance with
 19 the Court's Order appointing substitute custodian.

20 I declare under penalty of perjury, under the laws of the United States of America,
 21 that the foregoing is true and correct.

22 Executed on October 16, 2007 at San Diego, California.

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26 Roy Hobbs, Controller
 27 for SHELTER ISLAND YACHTWAYS, LTD.
 28 a California Limited Partnership,
 dba SHELTER ISLAND BOATYARD